D. Remarks

Reconsideration and allowance in view of the amendments made and comments which follow are respectfully requested.

In the Office Action, the Examiner rejected claims 1, 3, 4, 7-11, 14, 15, 19-20, 22, 24, 25, 28-32, 34-38, 41, 42, 44, 46-56, 58-73, 75, 76, 78, 79, 81 and 82 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-45 of U.S. Patent No. 6,611,755 to Coffee et al. The Examiner stated that, although the conflicting claims are not identical, they are not patentably distinct from each other because the patent includes the same limitation except in more precise form. The Examiner stated that specifically, the "... location aware business logic... to use said location information to trigger events or to tag events, messages, or other data" as claimed in the patent would correspond to "..a plurality of sensors for measuring parameters related to the usage, function, operation, location, systems or cargo of the truck... "The Examiner stated that, as is more fully related in the following rejection under 35 U.S.C. 102(e), the broader claims of the instant application read on the more limited claims in the patent.

The Examiner rejected claims 1, 3, 4, 7-11, 14, 15, 19-20, 22, 24, 25, 28-32, 34-38, 41, 42, 44, 46-56, 58-73, 75, 76, 78, 79, 81 and 82 under 35 U.S.C. 102(e) as being allegedly anticipated by Coffee et al. (Coffee) U.S. Patent No. 6,611,755.

The Examiner stated that applied reference has common inventors with the instant application. The Examiner stated that, based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). The Examiner stated that this rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention

disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention" by another," or by an appropriate showing under 37 CFR 1.131.

The Examiner stated that, as to claims 1, 22, 44, 59 and 66, Coffee discloses a wireless gateway for connecting mobile and remote assets to business enterprises through multiple wireless networks (fig 1, network hubs 1 and 2), location aware business logic for sending and receiving location information (GPS), the business logic would inherently provide a common interface and protocol for handling the location information and enabling applications as Coffee discloses these as working together (claim 1). The Examiner stated that Coffee further discloses the business application as being served over the Internet (20 in fig 1), such Internet would, inherently, be accomplished through a browser. The Examiner had further comments on the dependent claims.

The Examiner rejected claims 2, 5, 6, 18, 23, 26, 27, 33, 39, 40 as allegedly obvious over the Coffee '755 patent. The Examiner stated that, as to claims GPS receivers work wirelessly and are well known in the art to be handheld and therefore, it would have been obvious to one of ordinary skill in the art to use a handheld GPS receiver as they would not need expensive installation into vehicles. The Examiner stated that the GPS would be a handheld portable device and a combined navigation (Global Positioning System) and sensor device (it detects a satellite).

The Examiner had further comments on claims 12, 13, 21, 43, 45, 57, 74 and 77 and 80.

In response to the Office Action, applicant is removing the '755 Coffee patent as a reference by claiming priority on the application for the '755 patent. By the amendment above, applicant has taken all required steps to comply with claiming benefit of, and designating the present application as a continuation-in-part of Serial No. 09/466,169, which is the application which matured into the Coffee '755 patent.

The requirements for claiming benefit of an earlier filing date and cross-reference to other applications are found in 37 C.F.R. §1.78. These requirements are:

1. Same Disclosed Invention
2. Copendency
3. Reference to First Application
4. Same Inventor or Inventors
5. Timely Request For Benefit, If Required
6. English Translation, If Required.

As will be discussed below, requirement 1-4 have been met, and requirements 5 and 6 do not apply.

1. Same Disclosed Invention

The present application must be an application for an invention which is also disclosed in the first application, and the disclosure of the invention in the first and second applications must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. § 112.

In the present case, the Examiner has made a finding that the subject matter of several claims is disclosed in the first application. Applicant believes that the subject matter of those claims is disclosed sufficiently to comply with 35 U.S.C. §112, first paragraph in both applications. No issue regarding the sufficiency of the disclosure has been raised. Accordingly, the first requirement has been complied with.

2. Copendency

The first application was filed on December 19, 1999 and issued on August 26, 2003. The present application was filed on September 11, 2000, during the pendency of the first application. Accordingly, this requirement has been met.

Applicant also notes that a continuation of the first application was filed on August 25, 2003, was assigned serial No. 10/646,715, and is presently pending.

3. Reference to First Application

The present specification is being amended to reference the first application. Accordingly this requirement is met.

4. Same Inventor or Inventors

The first application names John Coffee and three other inventors in common with the present application. Accordingly, this requirement is met.

5. Timely Request For Benefit

The applicable rules require that, for applications filed on or after November 29, 2000, a request for benefit must be made within a certain time period. However, no time period applies for applications filed before November 29, 2000. The present application was filed before November 29, 2000, so no time period deadline applies.

6. English Translation, If Required

An English translation must be provided if the first application was a provisional application filed after November 29, 2000. This requirement does not apply because the first application in this case was not a provisional application, and was filed before November 29, 2000. In any case the first application in this case was filed in English.

In view of the foregoing, applicant believes he has complied with all requirements for claiming the benefit of prior application, U.S. Serial No. 09/466,167 filed December 19, 1999.

Because the only reference cited against the claims is the '755 patent, which issued on this prior application, applicant believes that all of the rejections have been overcome.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorneys invites the Examiner to telephone them at the number provided below.

No fee other than the three month extension fee is deemed necessary in connection with the filing of this Amendment. However, if any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:

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9/27/04

Peter J. Phillips Date Reg. No. 29,691